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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

IN RE: DMCA Section 512(h)
Subpoena to Google LLC

MISCELLANEOUS ACTION No.: 3:21-MC-80237

**EXPRESS SCRIPTS, INC.’S REQUEST TO THE
CLERK FOR ISSUANCE OF SUBPOENA TO
GOOGLE LLC PURSUANT TO 17 U.S.C.
§ 512(H), TO IDENTIFY ALLEGED INFRINGERS**

Express Scripts, Inc. (“**ESI**”), hereby requests that the Clerk of this Court issue a subpoena to Google LLC (“**Google**”) to identify an alleged infringer or infringers, pursuant to the Digital Millennium Copyright Act (“**DMCA**”), 17 U.S.C. § 512(h). The proposed subpoena is attached hereto as Exhibit A (“**DMCA Subpoena**”).

The DMCA Subpoena is directed to Google, an internet service provider that operates “Google Drive,” a document sharing website. The infringing party or parties posted on Google Drive images of an agreement between ESI and Aon Consulting, Inc. (“**Aon**”), which infringes copyrights held by ESI and Aon in that agreement. (See Declaration of Jonah Houts, ¶ 2.)

ESI has satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h), namely:

- (1) ESI has submitted a copy of the DMCA notification required by 17 U.S.C. § 512(c)(3)(A) as Exhibit 1 to the Houts Declaration, filed concurrently herewith;
- (2) ESI has submitted the proposed DMCA Subpoena concurrently herewith; and

(3) ESI has submitted a sworn declaration confirming that the purpose for which the DMCA Subpoena is sought is to obtain the identity of an alleged infringer or infringers, and that such information will be used only for the purpose of protecting ESI's rights under Title 17 U.S.C. § 512(h)(2).

Accordingly, in support of its request for a DMCA Subpoena, ESI submits and attaches:

- A copy of the DMCA notification described in 17 U.S.C. § 512(c)(3)(A) (see Houts Decl., Ex. 1);
 - A proposed DMCA Subpoena directed to the service provider, Google (Ex. A hereto); and
 - A sworn declaration that the purpose for which the DMCA Subpoena is sought is proper under the DMCA. (*See* Houts Decl., ¶ 4.)

Because ESI has complied with the statutory requirements, ESI respectfully requests that the Clerk expeditiously issue and sign the proposed DMCA Subpoena pursuant to 17 U.S.C. § 512(h)(4) and return it to the undersigned counsel for service on the subpoena recipient.

Dated: September 24, 2021

HUSCH BLACKWELL LLP

By:

SHAYAN HEIDARZADEH

Attorneys for Petitioner
EXPRESS SCRIPTS, INC.